

**RULES AND REGULATIONS  
GOVERNING THE SUBDIVISION OF LAND**

ERVING PLANNING BOARD  
ERVING, MASSACHUSETTS

These Rules and Regulations shall be effective on and after May 17, 2001, and so remain until modified or amended by the Planning Board.

**SECTION I AUTHORITY AND PURPOSE**

- A) AUTHORITY These Rules and Regulations are enacted by the Erving Planning Board under the Authority granted by MGL, Chapter 41, Section 81-Q, for the purposed set forth in Section 81-M of said Chapter 41. For matters not covered by these Rules and Regulations, reference should be made to the provisions set forth in the Subdivision Control Law, MGL Chapter 41, Sections 81-K to 81-GG as most recently amended.
- B) PURPOSE The Subdivision Rules and Regulations have been enacted for the purpose of protecting the safety, convenience, and the general welfare of the inhabitants of the Town of Erving by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions, and in proper cases parks and open areas. The powers of the Planning Board under the Subdivision Control Law and under these Regulations shall be a subdivision by ways that will be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; controlling congestion in such ways and in the adjacent public ways; reducing danger to life and limb in the operation of motor vehicle; securing safety in the case of emergency situations; insuring compliance with the applicable protective (zoning) bylaws; securing adequate provision for water, sewage, drainage, underground utility services, fire, police, ambulance services, and other similar municipal equipment, street lighting and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other, with the public ways in the town, and with the ways in neighboring subdivisions.

**SECTION II APPLICABILITY**

- A) GENERAL No person shall make a subdivision, within the meaning of the Subdivision Control Law, of any kind within the Town of Erving or proceed with the improvement or sale of lots in a subdivision, or the construction of ways, or the installation of municipal services therein, unless and until a Definitive Plan of such subdivision has been submitted to and has been approved by the Planning Board as hereinafter provided.
- B) DEFINITIONS In creating these Regulations, the definitions in MGL Chapter 41, Section 81-L shall apply (unless a contrary intention clearly appears). In addition, the following words shall have the following meanings:

- 1) Applicant, Developer, Sub divider The person who applies for the approval of a plan of a proposed subdivision. The applicant or applicants must be the owner or owners of all of the land included in the proposed subdivision. An agent or representative may act for an owner provided that a properly limited power of attorney or a statement witnessed by a Massachusetts Notary Public authorizing such a person to act in their behalf is submitted to the Board. In the case of any kind of partnership, all partners/owners must join in the application and listed with the Erving Assessors as part owners of all or some of the properties included in the subdivision. In the case of a trust, all trustees must join in the application and be listed as owners of all or some of the properties included in the subdivision. In the case of the corporation the application must be made by the president, shall have the corporate seal affixed, and shall be the legal existence of the corporation and its authority to do business in Massachusetts. An attorney acting on behalf of any applicant shall be licensed to practice law in Massachusetts and shall submit a written statement of representation.
- 2) Board of Planning Board The Planning Board of the Town of Erving, Massachusetts.
- 3) Building A dwelling, shed, garage, or other structure.
- 4) Completed Application A request that includes all plans, forms and any other documentation required by the Planning Board. Any application found to be incomplete may be returned to the applicant as disapproved due to being an incomplete application.
- 5) Consultants or Consulting Services Includes but is not limited to architects, biologists, and other environmental experts, chemists, engineers, geologists, landscape architects, planners, lawyers, sanitarians, and surveyors.
- 6) Definitive Plan At least 5 copies of the map of the proposed subdivision, an acetate overlay, a development impact statement, together with all other documents, drawings, information, filing fees paid, and reimbursement of all consultants retained by the Planning Board that were needed to reach a decision of the application.
- 7) Development Impact Statement (DIS) A documented, written analysis of a proposed subdivision which contains all information provided by these regulations, and which provides the Planning Board and its agents or consultants with the information necessary for plan review. The DIS is prepared by the applicant.
- 8) Metric Equivalent Measure The equivalent distance in meters used on permanent right of ways and easements in anticipation of a national conversion to the metric system.
- 9) Owner or Owners The owner/s of record as shown by the records in the Franklin County Registry of Deeds.
- 10) Streets Streets within the Town of Erving are classified in 4 (four) main categories:
  - a) Major Street – A street which, in the opinion of the Planning Board, is likely to carry substantial volumes of through traffic;
  - b) Secondary Street - A street other than a major street which, in the opinion of the Planning Board, is likely to carry traffic to destinations other than just to and from the lots on that street.

- c) Minor Street – A street which, in the opinion of the Planning Board, is likely to be used only by vehicles traveling to and from the lots on that street.
  - d) One Way Street – Any of the 3 (three) classes of streets listed above that is designed to carry traffic in only one direction. Such streets shall have a width that is satisfactory to the Board and the Highway Superintendent.
- 11) State Construction Standards, Mass DPW Construction Standards These specifications are published by the Massachusetts Department of Public Works. They are entitled Standard Specifications for Highway and Bridges, and include all supplements, updates, revisions, or future editions covering substantially the same subject matter. All matters left open or undetermined by these specifications shall be specified by the Planning Board on a case by case basis.

### **SECTION III PLANS BELIEVED NOT TO REQUIRE APPROVAL**

#### **A) PLAN BELIEVED NOT TO REQUIRE APPROVAL**

- 1) Any person who wishes to cause to be recorded in the Registry of Deeds, or to be filed with the Land Court, a plan of land who believes that their plan does not require approval under the Subdivision Control Law, may submit his plan to the Planning Board with the following:
  - a) A reproducible mylar original and a minimum of 5 copies of their plan;
  - b) Written evidence that a filing fee in the amount of \$65.00 for a single lot, or \$35.00 per lot for all plans including 2 or more lots, made payable to the Town of Erving, Massachusetts.
  - c) An application for hearing (Form A) upended hereto, signed by the applicant/s and providing all information requested;
  - d) All supporting evidence necessary to show that the plan does not require approval.

The application in its entirety will be submitted to the Town Clerk who will present it to the Planning Board.
- 2) If the Planning Board determines that the plan does not require approval, it shall within 21 days, with or without notice or public hearing (Ref MGL Chapter 41, Section 81-P), endorse on the plan the words “Planning Board Approval under the Subdivision Control Law Not Required.” The said endorsement shall be signed by a majority of the Planning Board. After endorsing the plan it will be returned to the applicant/s along with the Approval Is Not Required Certificate (Form A-1) and copies of the endorsement shall be sent to the Town Clerk and to the Assessors Office.
- 3) If the Planning Board determines that the plan does require approval from the Subdivision Control Law, it shall be within 21 days of submission of said plan, with or without notice or public hearing, informs the applicant and return the Acetate or Mylar portion of the plan along with the certificate stating Approval IS Required. Before the Planning Board makes its determination, it shall review, or have a consultant review the correctness of all street information and

compliance to the Town of Erving By-Laws. If, in the judgment of the Planning Board, that consulting services are necessary or appropriate, the applicant/s shall reimburse the Town of Erving for the full cost of such services prior to endorsement of the plan. Where the physical condition or width of a “way in existence” as set for in the provisions of MGL Chapter 41, Section 81-L, is considered by the Board to be inadequate either to provide for emergency services or to carry the traffic which is expected to be generated by such lots, the Board shall determine that Approval Is Required under the Subdivision Control Law.

- 4) If the Board fails to act upon a plan submitted under this section or fails to notify the applicant/s and the Town Clerk within the 21 days after its submission, it shall be deemed to have been determined that Approval Is Not Required from the Subdivision Control Law.
- 5) If the Board determines that an application is incomplete and the item’s needed to consider the application are part of submittal requirements, the application may be returned as denied. If the item/s needed are additional information from the submittal requirements, the applicant will be notified that they need to supply these documents in order for the application to be considered.

#### **SECTION IV PRELIMINARY PLANS**

- A) GENERAL Prior to the submission of a Preliminary Plan, a developer is encouraged to discuss their intentions with the Board. A Preliminary Plan of a Subdivision may be submitted by the sub divider for discussion and approval by the Board. The submission by the sub divider for discussion and approval by the Board. The submission of such a plan would enable the sub divider, the Planning Board, other municipal agencies and owners of abutting properties to the proposed subdivision to discuss and clarify the problems of such a subdivision before a Definitive Plan is prepared. Such a plan must be filed to allow the Board 45 days in which to study and make recommendations toward the preparation of a Definitive Plan. It is strongly recommended that a Preliminary Plan be filed in every case, especially where the developer intends to submit a series of Definitive Plans over a period of time, or where a developer intends to develop only part of the total contiguous parcel. In these cases, the Preliminary Plan shall show the future intended use or alternate uses for the part of the parcel not presently being developed. In either case, the Preliminary Plan will show all divisions, uses, and other improvements of the entire contiguous parcel. Prior to the submission of Preliminary Plan to the Planning Board and the Board of Health for approval, the sub divider should meet with the Board of Selectmen, assessors, Conservation Commission, School Committee, Police and Fire Departments and the Highway Superintendent to obtain their recommendations. These recommendations may be incorporated into the Preliminary Plan, in addition to any changes or additions suggested by the Planning Board.
- B) FILING PROCEDURES The Preliminary Plan may be drawn on any type of paper larger than 8 ½ inches by 11 inches but may not exceed 24 inches by 36 inches in size (tracing paper, graph paper, artist sketch pads, etc.) and at a

suitable scale. Each plan should have a 3/4 inch border and lettering no smaller than 1/8 inches in height. 12 copies of the plan should accompany the application, 5 of these should be color coded illustrating significant features according to the following color scheme:

**Roads:** Dark grey;

**Streams and other water bodies:** Blue;

**Wetlands:** Red;

**Wetlands 100 foot buffer zone:** Yellow;

**Flood plains and drainage easements:** Orange;

**Open space and recreations areas:** Green;

**Sidewalks and bicycle or pedestrian paths:** Brown;

**Subdivision and lot boundaries:** Black.

The applicant/s shall present their application to the Town Clerk for filing. At this time the Clerk, or his designated assistant/s shall receive the application by writing the date and time of the Form B and signing it in the appropriate place. The Clerk will make 3 copies of this document and return it to the applicant. The Clerk will take the application in its entirety and submit 1 copy of the plan with a Form B to the Board of Health and the rest to the Planning Board, keeping a copy of Form B for their records. The Town Clerk will notify the Board of Health and the Planning Board of the submission.

C) CONTENTS The Preliminary Plan shall show the following:

- a. The subdivision name, boundaries, north point, date, scale, legend, and title "Preliminary Plan;"
- b. The names, addresses, telephone numbers of owners of record, all applicants (if different from owners of record), engineers, and surveyors;
- c. The full names and mailing addresses of all abutter5s within 300 feet of the subdivisions boundaries, as certified by the Board of Assessors or the Assessors Clerk;
- d. Lines of all existing and proposed street, ways, lots, easements, and public or common areas within 500 feet of the proposed subdivision. Anything proposed shall be shown in pencil until they have been approved by the Planning Board;
- e. The proposed systems of drainage including adjacent existing natural waterways in a general manner;
- f. The approximate boundary lines of proposed lots with approximate areas and dimensions;
- g. The names, widths, and approximate location of all streets approaching the proximity of the subdivision;
- h. Sufficient date to determine the location, direction, length of every street and way line, lot line, and boundary line, and to establish these lines on the ground,
- i. Indication of purpose of all easements both present and proposed;
- j. The location of all surveyors pins, permanent monuments, fences, stone walls, and any other manmade fixtures or structures;
- k. The location of all large natural objects including but not limited tp, waterways, wetlands, natural drainage courses, ledge outcroppings,

marshes, swamps, wooded areas, and general location and species of all trees over 8 inches in diameter as well as the existing and proposed topography at a suitable contour interval;

- l. A written Development Impact Statement written by the developer with an area reserved for signatures of the Board for approval.
- m. A written Development Impact Statement written by the developer with an area reserved for signatures of the Board for approval.
- n. Written proof that all consultants bills have been paid in full.

It is generally preferred to draw as many of the above submittal requirements together as possible so they show how they interact with each other, but not so that the plan be excessively crowded, so the plan may be drawn on more than one sheet but should be displayed on as few sheets as possible. During the discussion of the Preliminary Plan the complete information for the Definitive Plan and the Financial Performance Guarantee will be developed.

- D) TENTATIVE APPROVAL The Preliminary Plan, when submitted, will be studied to determine if it is in compliance with these Regulations, within 45 days after the submission, the board shall approve, disapprove, or approve with modifications, the Preliminary Plan noting any changes thereon that should be made. In the case of disapproval, the Board shall state in detail its reasons therefore. The board shall notify the applicant/s of its actions by certified mail, with return receipt requested, and shall notify the Town Clerk with a copy of the Form A with an endorsed copy of either Form A-1 or A-2 as appropriate, and an endorsed copy of the plans. One of the endorsed sets of plans will also be returned to the applicants. Approval of the Preliminary Plan does not constitute approval of the subdivision but does facilitate the procedure in securing approval of the Definitive Plan.

## **SECTION V DEFINITIVE PLAN**

- A) GENERAL A Definitive Plan shall be governed by the Subdivision Regulations in effect at the same time of the submission of the Preliminary Plan for the project, so long as, it reflects the approved version of the Preliminary Plan and that the submission of the Definitive Plan is within 7 months from the date of submission of the Preliminary Plan. Should these requirements not be met, then the Definitive Plan will be governed by Subdivision Regulations in effect at the time of the submission of the Definitive Plan.
- B) FILING PROCEDURES The Definitive Plan shall be prepared by a Registered Professional Engineer or Land Surveyor, and shall be clearly and legibly drawn in black waterproof ink at a scale of 1 inch = 40 feet, or such other scale as the board may accept. The data required below may be on separate sheets as clarity and sound practice dictate. If multiple sheets are used, they shall be accompanied by an index map, drawn at a smaller scale to the entire subdivision and the surrounding area. Plan sizes shall be at least 8 and ½ inches by 11 inches maximum with a ¾ inch border and a minimum letter height of 1/8 inch. Each plan shall have a 3 ½ inch square reserved for Registry use. Any person who submits a Definitive Plan to the Planning Board for approval shall file with the Board the following:

- 1) 1 acetate/mylar original drawing of the Definitive Plan with an area reserved for signatures of the Board;
- 2) 12 paper prints made from the original drawing. At least 5 of these prints shall have the significant features illustrated according to the following color scheme;
  - Roads:** Dark grey
  - Streams and other waterbodies:** Blue
  - Wetlands:** Red
  - Wetlands 100 foot buffer zone:** Yellow
  - Flood plains and drainage easements:** Orange
  - Open space and recreation areas:** Green
  - Sidewalks and pedestrian or bicycle paths:** Brown
  - Subdivision and lot boundaries:** Black
- 3) A filing fee of \$150.00 per lot if a Preliminary Plan was approved, or \$350.00 per lot with no Preliminary Plan made payable to the Town of Erving, Massachusetts, or written evidence that said fee has been paid to an appropriate Town Official;
- 4) A properly executed application (Form C) appended hereto, signed by the applicant/s, providing all information requested;
- 5) A copy of the clients approved Development Impact Statement;
- 6) A properly executed Designers Certificate (Form D) signed by a Registered Land Surveyor and a Registered Engineer and providing all information requested;
- 7) A certified List of Abutters, and their addresses, as certified by The Board of Assessors or the Assessors Clerk;
- 8) A properly executed and approved performance guarantee;
- 9) A signed covenant stating that the subdivisions homeowners association that shall be set up by the developers.

The applicants file their application in its entirety with the Town Clerk. The Clerk shall write the date and time in the appropriate place on the Form C, make 3 copies of the document and return it to the applicant/s. The Town Clerk shall then remove 1 set of plans and 1 copy of the Form C for the Board of Health and the rest to the Planning Board. The Town Clerk shall then notify the Board of Health and the Planning Board of the submission within 10 days.

In addition, if in the judgment of the Planning Board, consulting services are necessary or appropriate, the applicant/s shall, prior to a determination of the Definitive Plan by the Board, reimburse the Town of Erving for the full cost of such services, or provide written proof that these expenses have been paid.

- C) CONTENTS – The Definitive Plan shall be prepared by a Registered Professional Engineer or Registered Land Surveyor, and shall be drawn in black waterproof ink. IF multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. Suitable space shall be provided on the plan to record the action of the Board and their signatures. The data required below may be on separate sheets as clarity and sound practice dictates. The Definitive Plan shall contain the following information:

- 1) The subdivision name including the way or ways on which it is situated, boundaries, north point, scale and date;
- 2) A legend denoting any signs or symbols used on the plan and not otherwise explained;
- 3) Names, addresses and telephone numbers or record owners sub dividers, and the surveyor. The seal and certificate number of the surveyor shall appear on the Definitive Plan;
- 4) The names and mailing addresses of all abutters within 300 feet of the proposed subdivision, as of the submission date of the Definitive Plan. This list must be certified by the Board of Assessors or the Assessors Clerk;
- 5) A Locus Plan, clearly showing the location of the subdivision at the largest scale possible and an index plan drawn at a scale of 1 inch = 100 feet;
- 6) All documents and information required on the Preliminary Plan.
- 7) Existing and proposed topography at 2 foot contour intervals for gentle slopes (less than 25%) and 5 foot contour intervals for steep slopes (greater than 25%) with elevations, shall be provided at 10 foot intervals;
- 8) Street frontage, land area, and identification number for each proposed lot;
- 9) Flood plains and drainage courses. Water bodies, wetlands, swamps and marshes, rock or ledge outcroppings. Stone walls, trees, and other significant natural features;
- 10) Subsurface conditions on the tract, location and results of all tests made to ascertain subsurface soil, rock and water conditions, depth to ground water, and on the a separate sheet, the location nad results of all soil percolation tests if individual sewage disposal systems are proposed. These percolation tests shall be:
  - a) Made on each lot within the subdivision;
  - b) Made by and at the expense of the applicant/s;
  - c) Shall be made in accordance with the Board of Health Regulations and the State Sanitary Code as applicable;
- 11) Size and location of existing and proposed water supply facilities;
- 12) Size and location of all fire hydrants, pumps, water lines to and from pumps and hydrants, and sources of water for fire fighting.
- 13) Location of all of the following improvements unless specifically waived by the Board in writing:
  - a) Street paving;
  - b) Sidewalks;
  - c) Utility poles and street lighting fixtures;
  - d) All utilities both above and below ground;
  - e) Curbs;
  - f) Gutters, storm drains, and drain lines;
  - g) All easements with statements of the purpose of each easement;
- 14) A storm drainage system showing invert and rim elevations of all catch basins and man-holes together with surface elevations of all

waterways within the subdivision at 100 foot intervals and the approximate depth of water at these points. Surface elevation and approximate depth of water at the annual high water line shown at calculations prepared by the applicant's engineer, including design criteria used, drainage areas and other information sufficient for the Board to check the size of any proposed drain, or bridge. Existing storm sewage should be shown.

- 15) Existing and proposed lines for streets, ways, easements and public or common areas within the subdivision. The proposed names of the streets shall be shown in pencil until approved by the Board;
  - 16) Data concerning the length, radius, and central angles of all curves; the location, bearing, and length of every street and way line, and all lot and boundary lines, sufficient to permit the reproduction of the same on the ground;
  - 17) Location of all permanent monuments properly identified as to whether they are existing or proposed. The distance and bearing to the nearest town, county or state monument on an accepted way, and monuments at all points of curvature and changes in direction of street side lines, or where designated by the Board;
  - 18) Location, names, and widths of streets bounding, approaching or within reasonable proximity of the subdivision and street lines to the access road leading from the subdivision to the nearest public road;
  - 19) A sketch plan, acceptable to the board, showing a possible or prospective street layout for any adjacent land owned or controlled by the owner of the applicant's of the subdivision.
  - 20) Existing and proposed profiles on the center line of proposed streets at a horizontal scale of 1 inch = 40 feet, and with vertical scale at a scale of 1 inch = 4 feet. All elevations shall refer to the Town datum;
  - 21) Cross sections and construction details shall include;
    - a) roadway section showing paving, crown, berm, shoulder, sidewalks, curb and curbstones, and all other components and features;
    - b) Details for catch basins, manholes, end walls, and all other components and features, with specific references to the appropriate sections of the State Construction Standards.
    - c) Drainage trench or waterway relocation section;
- D) PERFORMANCE GUARANTEE
- 1) Amount of Guarantee: Before the endorsement or approval of a Definitive Plan for a subdivision, the sub divider shall provide a performance guarantee in accordance with these Regulations in an amount which, in the judgment of the Board, is sufficient to cover all of the following.
  - 2) Type of Securities: The sub divider may file a performance guarantee using any of the options listed below:
    - a) By a deposit of money with the proper execution of a Form G;
    - b) Performance Guarantee through a Surety Company with the proper execution of a Form H;

- c) Performance Guarantee by Registered Negotiable Securities with the proper execution of a Form I;
- d) A Secured Bank Passbook with the proper execution of a Form J;
- e) Performance Guarantee through a Commercial Loan with the proper execution of a Form K;
- f) Any other financial arrangement that the Board may approve.

Any of the above methods must be executed in a manner acceptable to the Board and the Legal Counsel representing the Board, and shall be contingent on the completion of such improvements within 2 ½ years of the date of said guarantee. If the Board shall decide at any time during the said 2 ½ years that:

- a) The improvements have been installed in a manner satisfactory to the Board in sufficient amounts to warrant reductions in the amount of the Guarantee, or;
- b) The character and extent of the subdivision requires additional improvements, including but not limited to any improvements previously waived, or;
- c) The Board revises its requirements for any or all such improvements and the face value of such performance Guarantee shall there upon be reduced or increased respectively by an amount determined by the Board.

3) Final Release of Performance Guarantee: Full security, in whatever form provided, shall not be released by the Planning Board until:

- a) The Board has been assured of its integrity by the Town Highway Superintendent;
- b) Drainage and other improvements have been verified by 1 full calendar year of use or existence.
- c) Provisions for continued maintenance of improvements have been accepted by the Board.
- d) The Town of Erving has been reimbursed for the full cost of consulting services.

E) REVIEW BY THE BOARD OF HEALTH The Board of Health shall, within 45 days of submission, review the plan and report to the Planning Board and the Applicant/s in writing, the approval or disapproval of said plan. If the Board of Health disapproves said plan, it shall make specific findings as to which, if any of the lots shown on the plan, cannot be used as building sites without injury to public health and safety, and include such specific findings and the reasons for the adjustments thereof. Every lot so located that it will be serviced by the municipal water and sewer systems. If such utilities are not available, these lots must be able to be serviced by private wells and septic systems that are satisfactory to the Board of Health.

F) REVIEW BY OTHER TOWN OFFICIALS The Planning Board shall within 10 days post a copy of the plan in the Selectmen’s Office where it may be viewed. The board shall also within 10 days notify the following Town Officials by sending them a plan referral form (Form M/M-1);

- 1) Board of Selectmen
- 2) Police Department
- 3) Fire Department

- 4) Conservation Commission
- 5) Highway Superintendent
- 6) Parks and Recreation Commission
- 7) Municipal Building Inspector\*
- 8) Town Counsel\*

\*out of town offices

The above named Officials and Boards shall complete the Form M-1 that is on the reverse side of the Form M within 30 days.

- G) PUBLIC HEARING Before approval, approval with modifications, or disapproval of the Definitive Plan is given, a public hearing shall be held by the Planning Board. Notice of such hearing shall be given at least twice by the Board, once at least 2 weeks prior to the hearing, and once at least 1 week prior to the hearing. These notices shall be published in a newspaper of general circulation within the Town of Erving. A copy of said notice shall be mailed to the applicant/s and all owners of land within 300 feet of any of the proposed subdivision boundaries as certified by the Board of Assessors, or the Assessors Clerk.
- H) APPROVAL, APPROVAL WITH MODIFICATION, DISAPPROVAL After the public hearing, and after the report of the Board of Health (or lapse of 45 days without such report), the Planning Board shall approve, approve with modifications, or disapprove the Definitive Plan. A Definitive Plan disapproved by the Board of Health shall not be approved until the deficiencies reported by the Board of Health have been corrected and the Planning Board has received written confirmation from the Board of Health that the site/s have been reinspected and corrected. In the event of disapproval, the Planning Board shall state in detail wherein the plan does not conform to these Regulations or the recommendations from the Board of Health. In determining whether or not the plan conforms to these Regulations, the following criteria shall be considered;
- a) Completeness and technical adequacy of all submissions.
  - b) Determination that development at this location, as proposed in the Definitive Plan, does not present unwarranted hazard to the health, safety, or welfare to future residents or to others because of possible natural disasters, traffic hazard, or environmental degradation;
  - c) Conformity with design standards included in or cited by these regulations;
- I) APPROVAL IS NOT ACCEPTANCE An approval of a Definitive Plan or subsequent release of security upon the completion of construction, does not constitute the laying of, or acceptance by the Town, of streets or easements within a subdivision. Compliance with the existing laws of the Commonwealth of Massachusetts and bylaws and procedures of the Town of Erving are all required before acceptance of any easement or street. Such acceptance is at the discretion of the Town.
- J) MODIFICATION, AMENDMENT, OR RESCISSION OF PLAN APPROVAL The Planning Board, on its own motion or on the petition of any person interested, shall have the power to modify, amend, or rescind its approval of a plan of a subdivision, or to require a change in a plan as a

condition of its retaining the status of an approved plan. Any such action shall be in accordance with MGL Chapter 41, Sections 81-W through 81-X.

## **SECTION VI SMALL PROJECTS PROCEDURES**

- A) **QUALIFICATION** If he/she so chooses, a developer may file their plan under the Small Projects Procedures, which are less demanding than normal ones. To qualify, the subdivision must consist of 4 or few lots; must not be contiguous with property previously divided with current or previous ownership; and must not be served by access of any subdivided parcels developed under the Small Projects Procedures, unless in the opinion of the Board, standard construction requirements for the access have been met. The Planning Board reserves the right to require standard projects procedures for any development upon its determination that the Town's best interests and those of the future occupants would be served thereby.
- B) **LIMITING AGREEMENTS** Any plan approved under the Small Project procedures must contain or refer to covenants that no additional lots will be created if such land is contiguous or reached via the roads of the previous Small Project. Any way within a Small Project shall service no more than 4 lots. Should they waive this restriction, the Board shall impose lot and street betterments to be installed at the developers' expense. Without such betterments, streets and ways within the subdivision shall never be accepted by the Town to become a public way.
- C) **WAIVERS** For a Small Project, the following may be waived by the Planning Board.
- 1) Sidewalks
  - 2) Bituminous concrete roadway pavement (unpaved roads must comply with other standards stated in the Subdivision Control Laws)
  - 3) Property lines intersecting with Streets at right angles if property line is on a minor street
  - 4) Right of Way widths on Minor streets may be reduced to 28 feet
  - 5) 200 foot center line radii of curved streets, may be waived on minor streets
  - 6) Utility poles ad transformers or similar items that must be placed 10 feet from the edge of a road surface may be moved inward to a distance of 4 feet from the edge of a road surface

## **SECTION VII DESIGN STANDARDS**

- A) **STREETS** All streets in the subdivision shall be designed so that, in the opinion of the Board, they will provide safe vehicular traffic. Due consideration shall also be given by the sub divider to the attractiveness of the street layout in order to obtain the maximum livability and amenity of the subdivision. Provisions satisfactory to the Board shall be made for the proper projection of streets or for access to adjoining property which has not yet been subdivided. Reserve strips prohibiting access to streets of adjoining property shall not be permitted, except where, in the opinion of the Board, such strips shall be in the public interest.
- 1) Streets shall be classified as stated in Section II, B, 10, a-d of these Rules and Regulations.

- 2) The Board may at their discretion, impose more stringent requirements than those listed within these regulations. In such cases, the Town may reimburse the developer/s for additional cost imposed upon them by such additional requirements providing such requirements are clearly in excess of those needed to satisfy the normal requirements of that particular development and that such requirements are specifically intended to benefit a substantial area outside of the intended subdivision.
- 3) All streets, roads, ways, etc., shall conform to the following guidelines and/or standards:
  - a) Street jogs with center line offsets of less than 100 feet shall be avoided;
  - b) Streets shall be laid out so as to intersect as nearly as possible to right angles;
  - c) The minimum center line radii of curved streets shall be;
 

Major Streets	500 feet
Secondary Streets	300 feet
Minor Streets	200 feet
One Way Streets	As board determines
  - d) Property lines at intersections of major or secondary streets shall be rounded or cut back to provide for a curb radius of not less than 30 feet. For minor streets a radius of not less than 20 feet is required.
  - e) The minimum width of streets shall be:
 

Major Streets	52 feet
Secondary Streets	40 feet
Minor Streets	32 feet
One Way Streets	The minimum width of any one way street will be determined on the usage and the amount of traffic that will be anticipated. Any street that will provide on street parking shall have a width increase that will safely accommodate parked vehicles and shall be identified by signs and street markings. Any street that does not anticipate on street parking shall be posted every 50 feet. Only delivery vehicles parked for no longer than 15 minutes will be allowed to park on these streets. The Planning Board will determine these needs.
  - f) The maximum grade of streets shall be;
 

Major Streets	6%
Secondary Streets	9%
Minor Streets	12%
One Way Streets	Board will determine
  - g) The center line grade of any street shall not be greater than 0.5%;
  - h) Whether temporary or permanent, every dead end street shall provide an approved turnaround at the closed end of the street. A cul-de-sac turnaround must have diameter large enough to accommodate a school bus and the Town's largest fire truck;

- i) The Board may modify these requirements where, in their opinion, special or unusual conditions or circumstances so require it.
- B) **DRIVEWAYS** All driveways shall be constructed to the following standards:
  - 1) Any driveway with a length in excess of 500 feet shall be considered a private, minor, road and must provide some kind of turnaround at each closed end for emergency vehicles to exit;
  - 2) No driveway shall be shared by more than 2 lots;
  - 3) A driveway may be constructed and covered with any material, as long as it will support the vehicles using it.
- C) **EASEMENTS** All easements required must be properly filed by the owner/s of the property before approval may be given for a subdivision. These easements may be, but not limited to those listed below:
  - 1) Easements for utilities across lots or centered on rear or side lot lines shall be provided where necessary and shall be at least 20 feet wide;
  - 2) Where a subdivision is traversed by a water course, drainage way, channel or stream, the Board may require that there be provided a storm water easement or drainage right-of-way of adequate width to conform substantially to the lines of such water course, drainage way, channel or stream, and to provide construction or other necessary purposes;
  - 3) Easements of right-of-ways in cases of shared driveways given to all users of this way.
- D) **LOT SIZES AND SHAPES** All lots within the subdivision shall conform to provisions set forth in the Town of Erving zoning bylaws and the lot shapes shown in the appendix section of these regulations;
- E) **OPEN SPACES** Before approval of a plan, the Board may also, in proper cases, require the plan to show a park or parks suitably located for a playground or recreational purposes, or for providing light and air. The park/s shall not be unreasonable in area in relation to the land to be subdivided and to the prospective uses of such land. The Board may be appropriate endorsement on the plan, that no building may be built on such a park without its approval;
- F) **PROTECTION OF NATURAL FEATURES** Due regard shall be shown for all natural features, such as large trees (over 8 inches in diameter), water courses, scenic points, historical spots, large rock and ledge outcroppings, and similar assets that, if preserved may add attractiveness and/or value to the subdivision and the community.

## **SECTION VIII REQUIRED IMPROVEMENTS**

The improvements required herein must be installed to the satisfaction of the Board of Selectmen of their duly appointed representatives. Schedule for installations of improvements should be filed with the Board of Selectmen, who will provide the developer with a checklist of required inspections. Failure to file such a schedule, or otherwise give adequate notice as to when improvements can be inspected, will significantly delay certification of such improvements and subsequent release of bond or covenant.

A) STREET AND ROADWAY CONSTRUCTION Roads shall be constructed as follows:

- 1) The entire area of each street shall be cleared of all stumps, brush, roots, boulders, like material and trees not intended for preservation.
- 2) All loam, soft material, clay or mud, shall be stripped from the line of the streets for the full length and width, including shoulders, to a depth that will provide a firm foundation. No soft or inferior materials shall be permitted below the sub grade and the sub grade shall be thoroughly compacted before gravel shall be placed over the compacted base. The top 3 inches of gravel shall be screened or crushed to a maximum stone size of 1 inch. Extreme care shall be taken to insure that all trenches for utilities have been thoroughly compacted to prevent future settling. Sub-drains shall be installed if necessary.

- 3) All streets and roads shall be constructed to the following widths excluding parking:

<u>Classification</u>	<u>Right of Way</u>	<u>Paved Width</u>	<u>Shoulder Width</u>
Major Street	52 Feet	24 Feet	4 Feet
Secondary Street	40 Feet	20 Feet	2 Feet
Minor Street	32 Feet	16 Feet	2 Feet
One Way Street	Board shall determine widths on case by case basis.		

- 4) The completed gravel surface shall be treated for its full paved width in the following manner:
  - a) A bituminous concrete mixture shall be applied by a paving machine as a binder or base course at a thickness of at least 1 and ¼ inches after compaction;
  - b) After the sub base has been inspected, a surface coat must be applied using the same methods and thickness as the sub base. Under no circumstances shall any surface coat be applied until the sub base has been inspected and approved. All paving must conform with Mass. Dept. of Public Works specifications for Type I-1 bituminous concrete, in materials, quality standards, and methods of application.

B) CURBS AND GUTTERS Curbing shall be installed in accordance with the following specifications:

Major Streets	Granite or concrete curbs at all intersections and steep grades.
Secondary Streets	Special situations only.
Minor Streets	Special situations only.
One Way Streets	As directed by Planning Board

Curbing at all intersections shall include the full length of the curve, plus 6 feet of tangent in each direction. Curbing on steep grades shall mean all

grades in excess of 6 percent. Curbs may be required on any street where the Planning Board deems that special conditions of topography, drainage, alignment, or any unusually high densities to require.

In all situations where curbing is not required the roadway edge and adjoining grass plot or shoulder shall be treated as to provide adequately for the carrying of surface water runoff. This may require special treatment of gutters, shoulders, ditches, etc. All curb inlets shall be granite or concrete and of standard design.

C) SIDEWALKS Sidewalks shall be installed in accordance with the following specifications:

Major Streets	4 foot minimum width on both sides
Secondary Streets	3 foot minimum width on both sides unless otherwise specified by Planning Board.
Minor Streets	As specified by Planning Board.
One Way Streets	As specified by Planning Board.

- 1) Sidewalks shall be constructed between the roadway and the property line, as close to the property line as practical.
- 2) Sidewalks shall be of bituminous concrete or cement concrete upon a sub base consisting of at least 6 inches of good processed gravel at a maximum aggregate size of 2 inches or crushed stone after compaction. No surface material shall be applied until the sub base has been inspected and approved. Bituminous paving shall conform to the same requirements as for street surfaces. Cement concrete paving shall be 4 inches thick, reinforced with No. 1 gauge, 6 inch by 6 inch, welded mesh with expansion joints at no more than 3 foot intervals.
- 3) Any sidewalk that travels on one side of a street that terminates and resumes or connects to a sidewalk on the opposite side of the street must do so via a crosswalk permanently marked on the roadway and by road signs and comply with the American Disability Administration's regulations.

D) GRASS PLOTS AND TREES All right-of-ways within the proposed subdivision shall have tree belts and planted areas as follows:

- 1) The entire width of the right-of-way, except for roadways, shoulders, curbs, gutters, and sidewalks shall be devoted to a plot of appropriate vegetation consisting of at least 4 inches of good quality loam, properly planted to control erosion and dust;
- 2) Utility poles, transformers, signs, or similar items shall be placed within this plot so they are to be less than 2 feet from the edge of the shoulder;
- 3) Where, in the opinion of the Planning Board, existing or proposed trees on the adjacent lots are not adequate, a provision of two or more trees may be required in the planting strips or in adjacent portions of the lots. Size and planting procedures for such trees shall conform to the Town's current practice of the planting roadside trees.

E) UTILITIES All utilities shall be installed in accordance with the following specifications:

- 1) All sewer pipes and related equipment, such as manholes and Y's shall be constructed in conformity with the specifications of the Town of

Erving. Where, in the opinion of the Planning Board, existing public sewer mains are not reasonably accessible, the plan may be approved without the provision of the street sewers, provided that:

- a) No lot shall be built upon without the provision of an on lot sewage disposal system specifically approved by the Board of Health;
  - b) That the Planning Board may require the installation of so-called "dry sewers" in the conformity with specifications of the Town of Erving in any street where a specific plan has been approved and money appropriated at a town meeting for an extension of sewers within 5 years.
- 2) Adequate disposal of surface water shall be provided in accordance with good engineering practices.
- 3) Water pipes and related equipment, such as Y's, fire hydrants, shutoff valves, etc., shall be constructed to serve all lots on each street in the subdivision in conformity with specifications of the Town of Erving. Where, in the opinion of the Planning Board, existing public water mains are not reasonably accessible, the plan may be approved without the provision of street waterlines provided that:
- a) No lot be built upon without the provision of on-lot water facilities specifically approved by the Board of Health;
  - b) That the Planning Board may require special provisions for firefighting as are deemed necessary by the Chief of the Fire Department.
- 4) Provisions of electrical utilities, such as electrical power, telephone service, and cable television service, shall be installed and available to all lots in conformity with the Town of Erving and all local utilities. The Planning Board will determine whether these services shall be provided from utility poles or buried below ground.
- 5) Provisions of street lighting shall be provided as determined by the Planning Board, in accordance with from recommendations from the Chief of Police and the Chief of the Fire Department.
- F) MONUMENTS Permanent monuments made from granite or concrete shall be installed at all street intersections, at all points of change of directions or curvature of streets, at all change of directions in property or lot lines, and at all other points required by good engineering practice. After the completion of all construction, certification in writing shall be made to the Planning Board and the Supt. Of Highways, by the registered engineer of the developer, that all monuments have been properly set in accordance with the final plan.
- G) STREET SIGNS Street signs of a design conforming to or better than the type in general use in the Town shall be installed at all intersections and other proper places, under the direction of the Supt. Of Highways. All other signs shall conform with the Manual of Uniform Traffic Control Devices.
- H) RECORDING OF PLANS Upon completion of construction, the sub divider shall file a complete set of recorded plans, certified by a registered professional engineer, with the Supt. Of Highways, as well as the Registry of Deeds, which shall indicate that streets, storm drains, sewers, water mains, and their appurtenances have been constructed in accordance with the

Definitive Plan and are accurately located as shown upon the recorded plans. The location of all underground electrical, telephone, cable television wiring, as well as gas lines shall also be indicated on the recorded plan.

- I) RELEASE OF BOND No subdivision bond or other financial surety shall be released until the developer can show a completed form O (release of surety), signed by a majority of the Planning Board and that the requirements in Sections F, G, and H have been satisfied in the judgment of the Board of Selectmen.
- J) INSPECTION COSTS The developer shall be responsible for all required costs of all supervision, inspections, etc., pertaining to the subdivision, which are performed or supplied by the Town, its engineers or representatives. No subdivision bond, covenant, or other financial surety shall be released until all such expenses have been paid to the satisfaction of the Board of Selectmen.
- K) STREET ACCEPTANCE The acceptance of a plan by the Planning Board does not make any street thereon a public way. Existing laws of the Commonwealth of Massachusetts and bylaws of the Town of Erving must be complied with for acceptance of any street as well as winning a clear majority of votes by residents at an annual or special town meeting.

#### **SECTION IX ADMINISTRATION**

- A) VARIATION Strict compliance with the requirements of these rules and regulations may be waived when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the Subdivision Control Law.
- B) For matters not covered by these rules and regulations, reference is made to MGL Sections 81-K to 81-G.

#### **SECTION X STATEMENT OF DISCLAIMER**

Any portion of these rules and regulations found to be unlawful or unconstitutional; will have no effect on the rest of the regulations.